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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,097	08/04/2005	Tal Gordon	06727/0201248-US0	2147
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER COLON SANTANA, EDUARDO	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 03/17/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,097

Applicant(s)

GORDON ET AL.

Examiner

Eduardo Colon-Santana

Art Unit

2837

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-85, 88-103, 106-118 and 121-138 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-85, 88-103, 106-118 and 121-138 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Proficiency's Patent Drawing Review (PTO-544)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

1. Applicant's amendment filed on 11/17/2009 have been received and entered in the case.
2. Applicant's response with respect to the claims has been considered but is not persuasive. See response to arguments below.
3. Applicant's arguments with respect to claims 81, 98 and 114 have been fully considered and are persuasive. The 112th second paragraph rejection of claims 81, 98 and 114 has been withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly

owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 70-77, 80-85, 88-94, 97-103, 106-110, 113-118 and 121-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry Reed U.S. Patent No. 4,732,235 in view of Kucher et al. U.S. Patent No. 4,640,384.

Referring to claims 70, 71, 88, and 106 Reed discloses a scaffolding system (see figures 1-4 and respective portions of the specification). Reed further depict having at least one lowerable, collapsible, multiple-platform, mutually spacable, generally vertical transporter (i.e. scaffolding) (see figures 1-4) arranged for selectable communication with at least one side of a substantial height of a surface to be work on (see Col. 1, lines 4-6) in which mutual spacing between multiple platform is reduce. The scaffolding (i.e. transporters) could also be used for a surface of a building as is well-known in the art. Furthermore, Reed discloses that the scaffolding system includes a winch, which would be obviously driven by a motor being controlled for lowering the scaffolding from one upper point to a lower point and vice versa. However, Reed does not explicitly describe a controller to control the winch for lowering the

scaffolding (i.e. transporter) for evacuation of a building. Nonetheless, Kucher et al. discloses an evacuation system having a transporter (18) which uses a winch that is driven by a motor (42 or 70) that is controlled by a controller (44 or 28) to lowered or raise the transporter (cabin 18) from one floor to a level at which a person can egress safely in case of an emergency (see figures 1-5; Col. 2, lines 35-40 and Col. 4, lines 5-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to have a controller as taught by Kucher et al. within the teaching of the scaffolding of Reed for the purpose/advantages of facilitating coordination and response time of the winch when lowering or raising the transporter from one level to another.

As to claims 72, 89 and 107, Reed depicts having a multiple-platform transporter (i.e. scaffolding) having a plurality of stackable platforms (12) (see figures 3 and 4) arranged to be supported on multiple generally vertical supports (14), and having a mutually space relationship, each in communication with a different level (see figure 4). Different level could obviously be different floors of a building.

Referring to claims 73, 74, 90 and 91, Reed depicts from figure 1, a plurality of stackable platforms arranged in a mutually collapsed relationship when not in use or after an emergency has ended (see Col. 4, lines 16-20).

As to claims 75, 76, 92, 93, 108 and 109, Reed discloses that vertical supports include cables (14 and 25) and rigid support elements (21) shown in figures 5 and 6.

Referring to claims 77, 94, and 110, Reed depicts a plurality of platforms (12) each having a bottom support surface and a peripheral enclosing element as shown in figure 4.

As to claims 80, 84, 97, 102, 113 and 117, Reed discloses that the scaffolding (transporter) is provided with shackles (21) to be mounted on the surface to which the transporter is to be erected (which can obviously be a building) and guide sleeves having conical elements (32) to prevent lateral movement of the platforms (see Col. 1, lines 58-67; Col. 3, lines 6-12).

Referring to claims 81, 82, 98, 99, 114 and 115, Reed and Kucher et al. addresses all the limitations of claims 71, 88 and 106 above. In addition Kucher et al. disclose having a plurality of evacuation system (12) see figure 1, in addition to state that multiple transporter (cabins 18) can be provided for each installation (12) (see Col. 3, lines 42-46 and figure 5). Furthermore, Kucher et al. discloses that the ascent and descent of each cabin may be controlled either by a panel 44 or remotely from the trailer 28 (see Col. 4, lines 5-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the controller of Kucher et al. to positioned the transporters (cabins) at different locations of a building or surface either simultaneously or independently from other evacuation installations (12) for the purpose/advantages of

making more efficient the evacuation process while meeting certain demands (i.e. 6 and 8 floor on fire) which require independent movement of some transporters in contrast to others that may be use for other emergency purposes.

Referring to claims 83, 100 and 116, Kucher et al. discloses an emergency evacuation system having a winch that raises or lowers the transporter (see Col. 2, lines 36-50). In addition states that by way of example the transporter (cabin 18) may carry two fire fighters and the ascent may be controlled by one the fire fighters (see Col. 4, lines 38-40).

As to claims 85, 103 and 118, Kucher et al. discloses that in the event the building has lost power, weight couplers (22) (see figure 1) which carry the transporter will cause spools (14) to rotate, releasing cables (20) to their full length which is about 8 feet above ground (egress) level (see Col. 3, lines 40-64).

As to claims 121-138, the method steps of evacuation of a building are naturally done in the product structure of claims 70-85, 88-103 and 106-118 above as taught by Reed and Kucher et al.

5. Claims 78, 79, 95, 96, 101, 111 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed and Kucher et al. as applied to claims 77, 88, 94 and 110 above, and further in view of James Fitzgerald GB Patent No. 1434366 A.

Referring to claims 78, 79, 95, 96, 101, 111 and 112, Reed and Kucher et al. address the limitations of claims 77, 94 and 110 of having a peripheral enclosing element, but do not explicitly describe

that the peripheral enclosing element includes a wall element formed of fabric which is heat, fire and smoke resistant. Nonetheless, Fitzgerald discloses a portable collapsible transporter having a plurality of platforms in a nestable form each comprising a peripheral enclosing element that includes a wall (7) formed of fabric that is heat, fire and smoke resistant (see page 1, pars 30-75). It would have been obvious to one of ordinary skill in the art at the time of the invention to have a peripheral enclosure being made with a flameproof, heat and smoke fiber resistant material as taught by Fitzgerald within the teaching of Reed and Kucher et al. for the purpose/advantages of protecting a person(s) from a potential fire in case an evacuation should arise. Having this type of enclosure would also prevent any further injuring that a person would incur if place in direct contact with a hot surface or has to inhale smoke).

Response to Arguments

6. Applicant's arguments filed 11/17/2009 have been fully considered but they are still not persuasive.

It is believe that the prior art of record still reads on the claims as they have been presented.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992) and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007). In this case, Reed clearly discloses that the scaffolding system includes a winch, which would be obviously driven by a motor being controlled for lowering the scaffolding from one upper point to a lower point and vice versa. The fact that people can move from one platform to the another either up or down does not prevent the scaffolding system of Reed to be raised or lowered (i.e. being use for transportation). In addition Kucher clearly teaches that moving a platform (i.e. transporter) up or down in a building is well known in the art. Moreover, it may seem that the claims would have been obvious because the design incentives or market forces provided a reason to make an adaptation, and the invention resulted from an application of the prior knowledge as describe by Reed in view of Kucher in a predictable manner.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon-Santana whose telephone number is (571)272-2060. The examiner can normally be reached on Monday thru Thursday 7:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center at 866-217-9197. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 or 571-272-1000.

/E.C.S/
Patent Examiner
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/Walter Benson/
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2837

March 12, 2010